



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/575,003

01/09/2007

Mordechay Beyar

35053

6824

67801

7590

11/10/2010

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.

P.O. BOX 16446

ARLINGTON, VA 22215

EXAMINER

RAMANA, ANURADHA

ART UNIT

PAPER NUMBER

3775

MAIL DATE

DELIVERY MODE

11/10/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 1,7-12,18,24,25,29,30,32-37,52,62,65,68,70 and 73-85.

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 7-12, 18, 24-25, 29-30, and 79-81 drawn to a device for drilling a tunnel in bone.

Group II, claim(s) 32-35, drawn to a head for drilling a tunnel.

Group III, claim(s) 36-37, 52, 62, and 82-85, drawn to a method for fixating soft tissue to bone.

Group IV, claim(s) 65, 68, 70 and 78, drawn to a method for pre-treating graft material.

Group V, claim(s) 73-76, drawn to a kit for fixation of soft tissue.

Group VI, claim(s) 77, drawn to graft insertion tool.

The groups of inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons.

The special technical feature of Group II is a head with at least one cutting edge arranged for cutting bone in a forward pointing direction and at least one cutting edge arranged for cutting bone transverse to the forward pointing direction wherein the head can be set in first and second configurations wherein the first configuration positions the

Art Unit: 3775

head so that the bone cutting edge does not cut transverse to the forward pointing direction and a second configuration that positions the head so that the cutting edge cuts transverse to the forward pointing direction. Since the special technical feature of Group II is not present in Groups I, III, IV, V and VI, unity of invention is lacking.

The special technical feature of Group III is forming a tunnel in bone, forming a radial expansion region in an inner portion of the tunnel, inserting soft tissue into the expansion region via the tunnel and employing a fixation material capable of setting to fixate the soft tissue in the expansion region of the tunnel. Since this special technical feature is lacking in Groups I, II, and VI, unity of invention is lacking.

The special technical feature of Group VI is a tool with a body having a distal mechanism adapted to engage a portion of soft tissue and conveying the engaged portion through the tunnel to a widened portion thereof and a delivery mechanism adapted to deliver a setting material to the portion of soft tissue in the widened portion of the tunnel. Since this special technical feature is lacking in Groups I, II, III, IV and V, unity of invention is lacking.

A special technical feature of Groups III, IV and V is providing a graft material and increasing a cross section of the graft at one end thereof by adhering flowable material capable of setting to a hardened condition to the graft.

According to Rule 13.2, "unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art."

However, a special technical feature of Groups III, IV and V lacks patentable novelty as it is disclosed in US 6325804 (Fig. 6, col. 4, lines 24-67, col. 5 and col. 6, lines 1-14).

Thus, unity of invention is lacking.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

Art Unit: 3775

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention or species.

Should applicant traverse on the ground that the inventions have unity of invention (37 CFR 1.475(a)), applicant must provide reasons in support thereof. Applicant may submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. Where such evidence or admission is provided by applicant, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (571) 272-4718. The examiner can normally be reached Monday through Friday between 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Barrett can be reached at (571) 272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3775

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AR
November 7, 2010

/Anu Ramana/
Primary Examiner, Art Unit 3775